

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

GUY T. MITCHELL,)	
)	No. 08 CV 3193
Plaintiff,)	
)	Pending in the United States District Court
v.)	for the Southern District of New York
)	bearing Case No. 08 Civ. 4319 (JES)
CARBON CAPITAL II, INC.,)	
)	Judge Guzman
Defendant.)	Magistrate Judge Cole

**GUY T. MITCHELL’S EMERGENCY MOTION TO COMPEL
COMPLIANCE WITH SUBPOENAS ISSUED TO
HYATT CORPORATION AND HYATT EQUITIES, L.L.C.**

Plaintiff Guy T. Mitchell (“Mitchell”) respectfully requests that this Court grant his Emergency Motion to Compel Compliance with Subpoenas requesting documents issued to nonparties Hyatt Corporation and Hyatt Equities, L.L.C. (collectively, “Hyatt”). In support of his motion, Mitchell submits the accompanying Memorandum of Law, filed and served on June 3, 2008, and the attached Declaration of Jonathan N. Francis and its exhibits and states the following:

1. The underlying litigation, involving plaintiff Mitchell and defendant Carbon Capital, III, Inc., is pending in the United District Court in the Southern District of New York. In that case, Mitchell seeks a declaratory judgment against Carbon Capital that there is no default by Royal Palm Investors, LLC under a mezzanine loan agreement and injunctive relief prohibiting Carbon Capital from seeking to foreclose on security under the loan agreement.

2. Plaintiff Mitchell brings this motion on an emergency basis because a preliminary injunction hearing has been set for June 18, 2008 in the Southern District of New York. Moreover, discovery is set to close on June 11, 2008. As set forth in the accompanying

memorandum, the material sought by the subpoenas issued to Hyatt are critical to Mitchell in order to properly prepare and present his case at the June 18, 2008 preliminary injunction hearing.

3. Plaintiff Mitchell initially filed this motion to compel on Tuesday June 3, 2008, setting the matter for a hearing on Thursday in front of Judge Guzman. Judge Guzman referred this matter to this Court yesterday.

For the reasons set forth in the accompanying memorandum, Plaintiff Guy T. Mitchell requests that this Court enter an order compelling Hyatt to comply with the subpoenas' requests for production of documents, as such requests have been modified in order to eliminate any undue burden on Hyatt. As detailed in the attached Declaration, despite numerous consultations by counsel to negotiate the terms of Hyatt's production, Mitchell and Hyatt are unable to reach accord.

Dated: June 5, 2008

Respectfully submitted,

GUY T. MITCHELL

By: s/ Peter S. Roeser
One of His Attorneys

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CERTIFICATE OF SERVICE

I, Peter S. Roeser, an attorney, certify that on June 5, 2008, I caused a true and complete copy of the foregoing **GUY T. MITCHELL'S EMERGENCY MOTION TO COMPEL COMPLIANCE WITH SUBPOENAS ISSUED TO HYATT CORPORATION AND HYATT EQUITIES, L.L.C.** to be served by messenger delivery upon the following:

Nicholas P. Crowell
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and by email transmission upon the following:

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s/ Peter S. Roeser
Peter S. Roeser